IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 6036 of 1995

Between:

1 L.Moshe S/o.Jakraiah, R/o.Nagaram Village Nagaram Mandal, Guntur Dist
2 Smt.Rudrapati Suvarthamma W/o.Govindu,Wadamalapalli Village, Guntur

District.
3 Lokam Satyanandam S/o. Kotaiah, Wadamalapalli Village, Guntur Dist.

..... PETITIONERS

AND

1 The District Collector Guntur District, Guntur.
2 The Executive Director, District Scheduled Castes Service Cooperative

Society Ltd.,Guntur, Guntur District.
3 The Sub Collector, Tenali, Guntur District.
4 The Tahsildar, Bapatla, now called as Mandal Revenue Officer,
Karlapalem Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in interfering with the peaceful possession and enjoyment of the property by the petitioners over the S.No.861/2,860/6, 861/18 and 861/8 of Perli Village, Karlapalem Mandal, Guntur District as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India consequently direct the respondents not to interfere with peaceful possession and enjoyment of the petitioners over the land which was assigned to the petitioners by the 4th respondent vide D.K.T.No.545/80, 561/80, 551/80, Dt.13/8/70.

Counsel for the Petitioner : MR.J.M.NAIDU

Counsel for the Respondents Nos.1,3 & 4 : GP FOR REVENUE

Counsel for the Respondent No. 2 : None appeared.

The Court made the following :

ORDER : (Per Hon'ble Sri Bilal Nazki, J)

This Writ Petition is filed seeking a Writ of Mandamus, declaring the action of respondents in interfering with the peaceful possession and enjoyment of the property by the petitioners over Survey No.861/2, 860/6, 861/18 and 861/8 of Perli village, Karlapalem Mandal, Guntur District, as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

Case of petitioners is that the land in question was allotted to the father of 1st petitioner, the husband of 2nd petitioner and to the 3rd petitioner. The respondents without any reason or right, are interfering with their possession and were trying to give land to respondent No.2.

In the counter affidavit it has been stated that no land had been allotted to the father of 1st petitioner and the patta submitted by him was fake, false and fabricated. It will be difficult for this Court to go into such question whether the patta submitted by 1st petitioner was fake, false and fabricated.

Secondly it was stated that the husband of 2nd petitioner and the 3rd petitioner were assigned land, but they never brought it under cultivation within the period as per the conditions of the patta. The Tahsildar therefore passed an order on 24.9.1982, resuming the land by Rc.No.1003/82-B5. This was resumed as conditions of the patta were violated. After resumption, the land

was given to the possession of the Block Development Officer, Bapatla on 29.9.1982 and from 1982, the said land was being utilized for the development of brakish water fish and prawn culture.

This Writ Petition has been filed in the year 1995, whereas the land was resumed in 1982. From 1982 till 1995, no grievance was made. The learned Counsel for petitioners however submit that they still continue to be in possession and no order was ever communicated to them. I am afraid, this Court cannot go into that question in these proceedings. If possession was taken in 1982 by the respondents, even if the order was not communicated to the petitioners, they had a grievance. This Court cannot accept that the petitioners continue to be in possession in view of the clear stand taken by the respondents that they are in possession of the land from 1982 and are utilizing it for the purpose of fish and prawn culture.

For these reasons, there is no merit in this Writ Petition and it is accordingly dismissed. No order as to costs.

16th December, 2004 BILAL NAZKI, J

ajr

To

1 The District Collector Guntur District, Guntur.
2 The Executive Director, District Scheduled Castes Service Cooperative

Society Ltd.,Guntur, Guntur District.
3 The Sub Collector, Tenali, Guntur District.
4 The Mandal Revenue Officer, Karlapalem Guntur District.

5 Two C.Cs., to the G.P. for Revenue, High Court buildings,

Hyderabad (OUT).

6 Two C.D. copies.